



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

LIFESPACE COMMUNITIES, INC.

D/B/A

HARBOUR'S EDGE

AS OF

December 31, 2012

FLORIDA COMPANY CODE 88130

TABLE OF CONTENTS

Purpose and Scope	1
Company Operations.....	1
Required Escrow Deposits or Waivers	1
Required Disclosures	2
Quarterly Meetings with Residents.....	3
Access to Records.....	3
Examination Final Report Submission	4

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a periodic market conduct examination of Lifespace Communities, Inc., d/b/a Harbour's Edge, pursuant to Section 651.105, Florida Statutes. The scope period of this examination was July 1, 2008 through December 31, 2012. The onsite and desk examination procedures were completed on August 28, 2013.

The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes and Chapter 690-193, Florida Administrative Code Rules. This market conduct examination did not encompass a financial compliance examination.

This final report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Harbour's Edge. This report is a report by exception, and the information within has been limited to identification of exceptions, errors or unusual problems noted during the examination.

COMPANY OPERATIONS

Lifespace Communities, Inc., d/b/a Harbour's Edge is a not-for-profit Iowa Corporation. Harbour's Edge was granted a Certificate of Authority on February 17, 1986, and is one of several affiliated Continuing Care Retirement Communities located in Florida. Harbour's Edge is located in Delray Beach Florida. As of December 31, 2012, Harbour's Edge reported 266 Continuing Care Units consisting solely of Independent Living Units. Harbour's Edge also reported 54 Skilled Nursing Units consisting of 4 Community Beds and 50 Sheltered Beds. There were no Rental Units reported. As of the same reporting period, there were 335 individuals residing at this community.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Harbour's Edge provided a list containing the 156 continuing care contracts executed during the scope period of the examination. A random sample consisting of 59 contracts was selected from the list. Of the 59 contracts in the sample, 36 contracts were effectuated on or after July 1, 2010 after they were signed by both parties. The 36 contracts were tested for compliance with Section 651.055(2), Florida Statutes.

Findings:

For continuing care contracts executed on or after July 1, 2010, Section 651.055(2), Florida Statutes, provides that during the seven-day rescission period, the resident funds must be held in escrow unless otherwise requested by the resident, pursuant to Section 651.033(3)(c), Florida Statutes.

REQUIRED ESCROW DEPOSITS OR WAIVERS (Continued)

The examination found 19 instances where Harbour's Edge failed to document that the residents' funds were maintained in the escrow account for the seven-day rescission period of the contract, as required by Section 651.055(2), Florida Statutes.

Specifically, the funds paid by residents who executed the 19 continuing care contracts on or after July 1, 2010, were deposited into the escrow account; however, Harbour's Edge did not substantiate that such funds remained in escrow for the seven-day rescission period.

Subsequent Event: During the on-site portion of the examination, Harbour's Edge implemented escrow procedures to ensure that resident funds are managed in accordance with Section 651.055(2), Florida Statutes.

REQUIRED DISCLOSURES

Harbour's Edge provided a list containing the 156 continuing care contracts executed during the scope period of the examination. A random sample consisting of 59 contracts was selected from the list and tested for compliance with Sections 651.055(4) and 651.091(3), Florida Statutes.

Findings:

Section 651.055(4), Florida Statutes, provides in pertinent part that before the transfer of any money or other property to a provider by or on behalf of a prospective resident, the provider shall present a copy of the contract to the prospective resident and all other parties to the contract. The statute further provides that the provider secure a signed and dated statement from each party to the contract certifying that a copy of the contract with the specified attachments was received.

1. **In 11 instances, Harbour's Edge failed to secure a signed and dated statement from each party to the contract, certifying that a copy of the contract was received prior to the transfer of money or other property to the provider, as required by Section 651.055(4), Florida Statutes.**

1a. **Recommendation:** The Office recommends Harbour's Edge establish adequate procedures to ensure a signed and dated statement is secured from each party to the contract certifying that a copy of the contract was properly received.

Findings:

Effective July 1, 2010 Section 651.091(3)(h), Florida Statutes, require the provider to include as a required disclosure document, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership." Of the 59 contracts in the sample, 30 contracts were executed by the prospective resident on or after July 1, 2010. All 30 contracts were reviewed to determine compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes.

REQUIRED DISCLOSURES (Continued)

2. **In all 30 instances, Harbour's Edge failed to provide as a required disclosure, a copy of Section 651.071, Florida Statutes, to the prospective residents or their legal representative, as required by Section 651.091(3)(h), Florida Statutes.**
- 2a. **Recommendation:** The Office recommends Harbour's Edge establish adequate procedures to ensure all required disclosures are properly afforded to prospective residents or their legal representatives. The Office further recommends that a true and complete copy of the full disclosure document to be used is filed with the Office before use as required by Section 651.091(4), Florida Statutes.

QUARTERLY MEETINGS WITH RESIDENTS

The quarterly meeting agendas, notices to residents, minutes, and the dates of the meetings contained in the annual reports filed for the scope period were reviewed for compliance with Section 651.085, Florida Statutes.

Findings:

Section 651.085(1), Florida Statutes, provides that a facility shall report to the Office, in the annual report, the dates on which quarterly meetings with residents are held.

Harbour's Edge failed to accurately state in the 2008 through 2012 Annual Reports filed with the Office, various dates on which several quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes.

Specifically, Harbour's Edge inaccurately responded to item 14b of the December 31, Annual Reports for each of the years ending December 31, 2008 through 2012, by stating that quarterly meetings were held on dates other than the actual meeting dates.

Recommendation: The Office recommends Harbour's Edge establish adequate procedures to ensure that the actual dates on which quarterly meetings with residents are held are properly reported in the annual reports filed with the Office.

ACCESS TO RECORDS

Records necessary to conduct the examination and determine the degree of compliance with Chapter 651, Florida Statutes and Rule 69O-193, Florida Administrative code were requested from Harbour's Edge in accordance with Section 651.105(1), Florida Statutes.

ACCESS TO RECORDS (Continued)

Findings:

In 22 instances Harbour's Edge failed to maintain proper documents to adequately substantiate compliance with Rule 69O-193.018, Florida Administrative Code. In the 22 instances, documents pertaining to the withdrawal of waiting list fees from the escrow account were not sufficiently maintained. Consequently, compliance with Rule 69O-193.018, Florida Administrative Code could not be ascertained.

Recommendation: In order for the Office to determine the degree of compliance with Chapter 651, Florida Statutes and Rule 69O-193, Florida Administrative Code, the Office recommends Harbour's Edge establish adequate procedures and controls to ensure documentation is maintained and made available for examination purposes.

EXAMINATION FINAL REPORT SUBMISSION

The Office hereby issues this Final Report based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Harbour's Edge.